

## I

(Legislative acts)

## REGULATIONS

**REGULATION (EU) No 911/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL****of 22 September 2010****on the European Earth monitoring programme (GMES) and its initial operations (2011 to 2013)****(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 189 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure <sup>(2)</sup>,

Whereas:

(1) At its meeting of 15 and 16 June 2001 in Gothenburg, the European Council agreed on a strategy for sustainable development, in order to mutually reinforce economic, social and environmental policies and added an environmental dimension to the Lisbon process.

(2) In its Resolution of 21 May 2007 on the European Space Policy <sup>(3)</sup> adopted at the fourth joint and concomitant meeting of the Council of the European Union and of the Council of the European Space Agency at ministerial level established in accordance with Article 8(1) of the Framework Agreement between the European Community and the European Space Agency <sup>(4)</sup> (the

'Space Council'), the Council recognised the actual and potential contributions from space activities towards the Lisbon strategy for growth and employment by providing enabling technologies and services for the emerging European knowledge society and contributing to European cohesion, and underlined that space represents a significant element of Europe's Sustainable Development Strategy.

(3) The Resolution 'Taking forward the European Space Policy' <sup>(5)</sup> of 26 September 2008 adopted at the fifth joint and concomitant meeting of the Space Council stressed the need to develop adequate EU instruments and funding schemes, taking into account the specificities of the space sector, the need to strengthen its overall and its industry's competitiveness and the necessity of a balanced industrial structure; and to allow appropriate long-term Union investment for space-related research and for the operation of sustainable space-based applications for the benefit of the Union and its citizens, in particular by examining all space-related policy consequences within the framework of the next financial perspective.

(4) The European Parliament resolution of 20 November 2008 on the European space policy: how to bring space down to earth <sup>(6)</sup> stressed the need to find adequate EU instruments and funding schemes for the European Space Policy to supplement the allocations from the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007 to 2013) (the Seventh Framework Programme), so as to allow the different economic actors to plan their actions in the medium and long term and emphasised that the next financial framework should take into account adequate EU instruments and funding schemes to allow long-term Union investment for space-related research and for the operation of sustainable space-based applications for the benefit of the Union and its citizens.

<sup>(1)</sup> Opinion of 20 January 2010 (not yet published in the Official Journal).

<sup>(2)</sup> Position of the European Parliament of 16 June 2010 (not yet published in the Official Journal) and decision of the Council of 13 September 2010.

<sup>(3)</sup> OJ C 136, 20.6.2007, p. 1.

<sup>(4)</sup> OJ L 261, 6.8.2004, p. 64.

<sup>(5)</sup> OJ C 268, 23.10.2008, p. 1.

<sup>(6)</sup> OJ C 16 E, 22.1.2010, p. 57.

- (5) Global Monitoring for Environment and Security (GMES) has been an Earth monitoring initiative led by the Union and carried out in partnership with the Member States and the European Space Agency (ESA). Its primary objective is to provide, under Union control, information services which give access to accurate data and information in the field of the environment and security and are tailored to the needs of users. In doing so, GMES should foster better exploitation of the industrial potential of policies of innovation, research and technological development in the field of Earth observation. GMES should be, *inter alia*, a key tool to support biodiversity, ecosystem management, and climate change mitigation and adaptation.
- (6) In order to achieve the objective of GMES on a sustainable basis, it is necessary to coordinate the activities of the various partners involved in GMES, and to develop, establish and operate service and observation capacity meeting the demands of users, without prejudice to relevant national and European security restrictions.
- (7) In this context, a committee should assist the Commission in ensuring the coordination of contributions to GMES by the Union, the Member States and inter-governmental agencies, making the best use of existing capacities and identifying gaps to be addressed at Union level. It should also assist the Commission in monitoring the coherent implementation of GMES. It should monitor the evolution of policy and enable exchanges of good practice in GMES.
- (8) The Commission should be responsible for the implementation of the GMES security policy, assisted by the Committee. For that purpose, a specific configuration of the Committee (the 'Security Board') should be set up.
- (9) GMES should be user driven, thus requiring the continuous, effective involvement of users, particularly regarding the definition and validation of service requirements. In order to increase the value of GMES to users, their input should be actively sought through regular consultation with end-users from the public and private sectors. A dedicated body (the 'User Forum') should also be established to facilitate the identification of user requirements, the verification of service compliance and the coordination of GMES with its public sector users.
- (10) For the purpose of providing for a framework ensuring full and open access to information produced by GMES services and data collected through GMES infrastructure, while providing for the necessary protection of that information and data, the Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) in respect of registration and licensing conditions for GMES users and of criteria for restriction of access to GMES data and information, while taking into account the data and information policies of providers of data needed for GMES, and without prejudice to national rules and procedures applicable to space and *in-situ* infrastructures under national control. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.
- (11) In order to ensure uniform conditions for implementation of this Regulation and of the delegated acts adopted on the basis of this Regulation, implementing powers should be conferred on the Commission to adopt, on the basis of the conditions and criteria established by delegated acts, specific measures on restricting access to the information produced by the GMES services and to data collected through the GMES dedicated infrastructure, including individual measures taking into account the sensitivity of the information and data in question. Implementing powers should also be conferred on the Commission to coordinate the voluntary contributions of Member States and the potential synergies with relevant national, Union and international initiatives, to set the maximum rate of co-financing for grants, to adopt measures laying down the technical requirements in order to ensure the control and integrity of the system within the GMES space component dedicated programme and to control the access to, and handling of, technologies that provide security to the GMES space component dedicated programme, and to adopt the annual work programme of GMES.
- According to Article 291 TFEU, rules and general principles concerning mechanisms for the control by Member States of the Commission's exercise of its implementing powers shall be laid down in advance by a regulation adopted in accordance with the ordinary legislative procedure. Pending the adoption of that new regulation, Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>(1)</sup> continues to apply, with the exception of the regulatory procedure with scrutiny, which is not applicable.
- (12) As GMES is based on a partnership between the Union, ESA and the Member States, the Commission should endeavour to continue the dialogue recently established with ESA and Member States owning relevant space assets.
- (13) GMES services are necessary in order to foster the use of information sources by the private sector on a continuous basis, thus facilitating innovation, and thereby adding value, by service providers, many of which are small and medium-sized enterprises (SMEs).

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23.

- (14) GMES comprises both development activities and operations. With regard to operations, in its third orientations adopted at the Space Council meeting of 28 November 2005, the Council supported a phased approach for the implementation of GMES based on clearly identified priorities, starting with the development of three fast-track services in the field of emergency response, land monitoring and marine services.
- (15) The first operational services in the field of emergency response and land monitoring were financed as preparatory actions in accordance with Article 49(6)(b) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities <sup>(1)</sup> (the Financial Regulation).
- (16) In addition to the development activities financed under the space thematic area included in the Seventh Framework Programme, Union action is necessary in the period 2011-2013 to ensure continuity with the preparatory actions and to establish operational services on a more permanent basis in areas of sufficient technical maturity with a proven potential for the development of downstream services.
- (17) In its Communication of 12 November 2008 entitled 'Global Monitoring for Environment and Security (GMES): we care for a safer planet', the Commission outlined its approach to the governance and financing of GMES and indicated its intention to delegate the technical implementation of GMES to specialised entities, including ESA for the GMES space component, owing to its unique position and expertise.
- (18) The Commission should entrust the coordination of the technical implementation of the GMES services, where appropriate, to competent Union bodies or intergovernmental organisations, such as the European Environment Agency and the European Centre for Medium-Range Weather Forecasts.
- (19) Operational services in the field of emergency management and humanitarian responses are necessary in order to coordinate the existing capacity of the Union and its Member States to be better prepared for, to respond to and to recover from natural and man-made disasters, which often also have a negative impact on the environment. As climate change could lead to an increase in the number of emergencies, GMES will be essential for supporting climate change adaptation measures. GMES services should therefore deliver geospatial information to support emergency and humanitarian responses.
- (20) Land monitoring services are important for monitoring biodiversity and ecosystems and support climate change mitigation and adaptation measures and the management of a wide range of resources and policies, most of which relate to the natural environment: soil, water, agriculture, forests, energy and utilities, built-up areas, recreational facilities, infrastructure and transport. Operational land monitoring services are necessary at both European and global levels, developed in collaboration with Member States, third countries in Europe and partners outside Europe and the United Nations.
- (21) GMES services in the field of the marine environment are important for the support of an integrated European capacity for ocean forecasting and monitoring and the future provision of Essential Climate Variables (ECVs). They are an essential element for climate change monitoring, marine environment monitoring and transport policy support.
- (22) Atmosphere monitoring services are important for monitoring air quality, atmospheric chemistry and composition. They are also an essential element for climate change monitoring and the future provision of ECVs. The provision of information on the state of the atmosphere is necessary on a regular basis and at regional and global levels.
- (23) Security services are an important part of the GMES initiative. Europe will benefit from the use of space and *in-situ* assets in support of the implementation of services responding to the challenges which Europe is facing in the security field, notably border control, maritime surveillance and support to Union external actions.
- (24) Monitoring of climate change should allow for the adaptation and mitigation of its effects. It should in particular contribute to the provision of ECVs, climate analysis and projections on a scale relevant to adaptation and mitigation, and relevant service delivery.
- (25) The provision of operational services financed under this Regulation depends on access to data collected via space infrastructure and airborne, seaborne and ground-based facilities (*in-situ* infrastructure) and survey programmes. With full respect for the principles of subsidiarity and proportionality, access to the required data should therefore be ensured, and where necessary *in-situ* data collection complementary to existing Union and national activities may be supported. The continuous availability of the underlying *in-situ* and space observation infrastructure needs to be ensured, including space infrastructure specifically developed for GMES within the framework of the ESA GMES space component programme (the 'Sentinels'). The first Sentinels should enter their initial operations phase in 2012.

<sup>(1)</sup> OJ L 248, 16.9.2002, p. 1.

- (26) The Commission should ensure the complementarity of GMES-related research and development activities under the Seventh Framework Programme, the Union contribution to GMES initial operations, the activities of GMES partners and pre-existing structures, such as the European Data Centres.
- (27) GMES initial operations should be implemented consistently with other relevant Union policies, instruments and action, in particular with environmental, security, competitiveness and innovation, cohesion, research, transport, competition and international co-operation policies, the European Global Navigation Satellite Systems (GNSS) programme and the protection of personal data. Furthermore, GMES data should maintain coherence with Member States' spatial reference data and support the development of the infrastructure for spatial information in the Union established by Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) <sup>(1)</sup>. GMES should also complement the Shared Environmental Information System (SEIS) and Union activities in the field of emergency response.
- (28) GMES and its initial operations should be considered as a European contribution to building the Global Earth Observation System of Systems (GEOSS) developed within the framework of the Group on Earth Observations (GEO).
- (29) The Agreement on the European Economic Area and the Framework Agreements with candidate and potential candidate countries provide for participation by those countries in Union programmes. Participation by other third countries and international organisations should be made possible by the conclusion of international agreements to that effect.
- (30) This Regulation lays down, for the entire duration of GMES initial operations, a financial envelope of EUR 107 million constituting the prime reference, within the meaning of point 37 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management <sup>(2)</sup> (Interinstitutional Agreement), for the budgetary authority during the annual budgetary procedure. It is envisaged that this financial envelope will be complemented by an amount of EUR 209 million from the space theme of the Seventh Framework Programme for research actions accompanying GMES initial operations that should be managed in accordance with applicable rules and decision-making procedures in the Seventh Framework Programme. These two funding sources should be managed in a coordinated manner in order to ensure consistent progress in the implementation of GMES.
- (31) That financial envelope is compatible with the ceiling for subheading 1a of the multiannual financial framework (MFF) 2007-2013, but the margin remaining in subheading 1a for 2011-2013 is very small. It should be emphasised that the annual amount will be determined during the annual budgetary procedure, in accordance with point 37 of the Interinstitutional Agreement.
- (32) The fund should if possible be further increased so that commitment appropriations can be allocated for the space component during the current MFF. In specific terms, this concerns the operation of the A series of Sentinel satellites and the launch of the B series and the procurement of crucial components for the C series.
- (33) To that end, the Commission should, in the context of the mid-term review of the current MFF, and before the end of 2010, examine the possibility of additional funding for GMES, within the overall Union budget during the MFF 2007-2013.
- (34) The allocation of any additional funding to this Regulation on top of the EUR 107 million already allocated should be considered in the context of discussions on the future of European space policy, notably on procurement and governance.
- (35) The Commission should also submit a long-term financing strategy for the future MFF during the first semester of 2011, without prejudice to the outcome of the negotiations on the MFF 2014-2020.
- (36) In its financial planning, the Commission should ensure that data continuity is maintained both during and after the end of the period of the initial GMES operations (2011 to 2013), and that the services can be used uninterruptedly and without restrictions.
- (37) In accordance with the Financial Regulation, Member States, third countries and international organisations should be free to contribute to the programmes on the basis of appropriate agreements.
- (38) GMES information should be fully and openly accessible, without prejudice to relevant security restrictions or to the data policies of Member States and other organisations contributing data and information to GMES. This is necessary to promote the use and sharing of Earth observation data and information in accordance with the principles of SEIS, INSPIRE and GEOSS. Full and open access to data should also take into account existing commercial data provision and should promote stronger Earth observation markets in Europe, in particular in downstream sectors, to increase growth and employment.

<sup>(1)</sup> OJ L 108, 25.4.2007, p. 1.

<sup>(2)</sup> OJ C 139, 14.6.2006, p. 1.

(39) According to the Commission Communication of 28 October 2009 entitled 'Global Monitoring for Environment and Security (GMES): Challenges and Next Steps for the Space Component', there should be a full and open access data policy for the Sentinels through a free-of-charge licensing and online access scheme, subject to security concerns. Such an approach aims at maximising the beneficial use of Sentinel data for the widest range of applications and is intended to stimulate the uptake of information based on Earth observation data for end users.

(40) The action financed under this Regulation should be monitored and evaluated in order to allow for readjustments.

(41) Appropriate measures should also be taken to prevent irregularities and fraud and the necessary steps should be taken to recover funds lost, wrongly paid or incorrectly used in accordance with Council Regulations (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests<sup>(1)</sup> and (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities<sup>(2)</sup> and Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF)<sup>(3)</sup>.

(42) Since the objective of this Regulation, namely the establishment of the programme GMES and its initial operations, cannot be sufficiently achieved by the Member States because GMES initial operations will also comprise pan-European capacity and depend on the coordinated provision of services throughout the Member States that needs to be coordinated at Union level and can therefore, by reason of the scale of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective, especially regarding the Commission's role as coordinator of national activities,

HAVE ADOPTED THIS REGULATION:

#### Article 1

##### Subject matter

This Regulation establishes the European Earth monitoring programme called GMES and the rules for the implementation of its initial operations during the period 2011-2013.

<sup>(1)</sup> OJ L 312, 23.12.1995, p. 1.

<sup>(2)</sup> OJ L 292, 15.11.1996, p. 2.

<sup>(3)</sup> OJ L 136, 31.5.1999, p. 1.

#### Article 2

##### Scope of GMES

1. The GMES programme shall build on the research activities carried out under Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007 to 2013)<sup>(4)</sup> and the GMES Space Component Programme of ESA.

2. The GMES programme shall comprise the following:

(a) a service component ensuring access to information in support of the following areas:

- atmosphere monitoring,
- climate change monitoring in support of adaptation and mitigation policies,
- emergency management,
- land monitoring,
- marine environment monitoring,
- security;

(b) a space component ensuring sustainable spaceborne observations for the service areas referred to in point (a);

(c) an *in-situ* component ensuring observations through airborne, seaborne and ground-based installations for the service areas referred to in point (a).

#### Article 3

##### GMES initial operations (2011 to 2013)

1. GMES initial operations shall cover the period 2011-2013 and may comprise operational actions in the following fields:

1. the service areas referred to in Article 2(2)(a);
2. measures to support take-up of services by users;
3. data access;
4. support for *in-situ* data collection;
5. the GMES space component.

2. The objectives of the operational actions referred to in paragraph 1 are defined in the Annex.

<sup>(4)</sup> OJ L 412, 30.12.2006, p. 1.

#### Article 4

##### Organisational arrangements

1. The Commission shall ensure the coordination of the GMES programme with activities at national, Union and international levels, notably GEOSS. The implementation and operation of GMES shall be based on partnerships between the Union and the Member States, in compliance with their respective rules and procedures. The voluntary contributions of Member States, and the potential synergies with relevant national, Union and international initiatives, shall be coordinated in accordance with the advisory procedure referred to in Article 16(5).

2. The Commission shall manage the funds allocated to the activities under this Regulation in accordance with the Financial Regulation and with the management procedure referred to in Article 16(4). It shall ensure the complementarity and consistency of the GMES programme with other relevant Union policies, instruments and actions, relating in particular to the environment, security, competitiveness and innovation, cohesion, research (in particular the activities of the Seventh Framework Programme linked to GMES, without prejudice to Decision No 1982/2006/EC), transport and competition, international cooperation, the European Global Navigation Satellite Systems (GNSS) programmes, the protection of personal data and existing intellectual property rights, Directive 2007/2/EC, the Shared Environmental Information System (SEIS) and Union activities in the field of emergency response.

3. Since GMES is a user-driven programme, the Commission shall ensure that service specifications match user needs. To that end, it shall establish a transparent mechanism for regular user involvement and consultation, enabling identification of user requirements at Union and national level. The Commission shall ensure coordination with relevant public sector users in Member States, third countries and international organisations. Service data requirements shall be established independently by the Commission after consultation of the User Forum.

4. Technical coordination and implementation of the GMES space component shall be delegated to ESA, relying on the European Organisation for the Exploitation of Meteorological Satellites (EUMETSAT) where necessary.

5. The Commission shall entrust the coordination of the technical implementation of the GMES services, where appropriate, to competent Union bodies or intergovernmental organisations.

#### Article 5

##### Service delivery

1. The Commission shall take adequate measures to ensure effective competition in the provision of GMES services and to

promote the participation of SMEs. The Commission shall facilitate the use of the GMES services output to develop the downstream sector.

2. The provision of GMES services shall be decentralised, where appropriate, to integrate at European level existing space, *in-situ* and reference data inventories and capacities in Member States, thus avoiding duplication. Procurement of new data that duplicate existing sources shall be avoided unless the use of existing or upgradable data sets is not technically feasible or cost-effective.

3. The Commission, taking into account the opinion of the User Forum, may define or validate appropriate procedures for the certification of the production of data within the framework of the GMES programme. Those procedures shall be transparent, verifiable and auditable to ensure authenticity, traceability and data integrity for the user. In its contractual arrangements with GMES service operators, the Commission shall ensure that those procedures are implemented.

4. The Commission shall report annually on the results achieved in the implementation of this Article.

#### Article 6

##### Forms of Union funding

1. Union funding may take the following legal forms:

(a) delegation agreements;

(b) grants;

(c) public procurement contracts.

2. Genuine competition, transparency and equal treatment shall be ensured in the provision of funding by the Union. Where justified, Union grants may be provided in specific forms, including framework partnership agreements, or co-funding of operating or action grants. Operating grants to bodies pursuing objectives of general European interest shall not be subject to the degressivity provisions of the Financial Regulation. For grants, the maximum rate of co-financing shall be set in accordance with the management procedure referred to in Article 16(4).

3. The Commission shall report on the allocation of Union funds to each of the activities specified in Article 3(1) and on the evaluation process and results of the procurement tenders and of the contracts concluded on the basis of this Article, after the award of the contracts.

*Article 7***Participation of third countries**

The following countries may participate in the operational actions referred to in Article 3:

1. European Free Trade Association (EFTA) countries which are Contracting Parties to the EEA Agreement in accordance with the conditions laid down in the EEA Agreement;
2. the candidate countries, as well as potential candidates included in the stabilisation and association process in accordance with the Framework Agreements, or a Protocol to an Association Agreement, on the general principles for the participation of those countries in Union programmes, concluded with those countries;
3. the Swiss Confederation, other third countries not referred to in points 1 and 2, and international organisations, in accordance with agreements concluded by the Union with such third countries or international organisations pursuant to Article 218 TFEU, which shall lay down the conditions and detailed rules for their involvement.

*Article 8***Funding**

1. The financial envelope allocated to the operational actions referred to in Article 3(1) shall be EUR 107 million.
2. Appropriations shall be authorised annually by the budgetary authority within the limits laid down in the MFF.
3. Third countries or international organisations may also provide additional funding for the GMES programme.

The additional funding referred to in the first subparagraph shall be treated as assigned revenue, in accordance with Article 18 of the Financial Regulation.

*Article 9***GMES data and information policy**

1. The data and information policy for actions financed under the GMES programme shall have the following objectives:
  - (a) promoting the use and sharing of GMES information and data;
  - (b) full and open access to information produced by GMES services and data collected through GMES infrastructure,

subject to relevant international agreements, security restrictions and licensing conditions, including registration and acceptance of user licences;

- (c) strengthening Earth observation markets in Europe, in particular the downstream sector, with a view to enabling growth and job creation;
- (d) contributing to the sustainability and continuity of the provision of GMES data and information;
- (e) supporting the European research, technology and innovation communities.

2. For the purpose of providing for a framework to ensure the attainment of the GMES information and data policy objective referred to in point (b) of paragraph 1 while providing for the necessary protection of the information produced by the GMES services and of data collected through the GMES dedicated infrastructure, the Commission may adopt, by means of delegated acts in accordance with Article 10 and subject to the conditions specified in Articles 11 and 12, the following measures, taking into account the data and information policies of providers of data needed for GMES, and without prejudice to national rules and procedures applicable to space and *in-situ* infrastructures under national control:

- (a) measures establishing registration and licensing conditions for GMES users;
- (b) measures defining criteria for restricting access to the information produced by the GMES services and to data collected through the GMES dedicated infrastructure.

*Article 10***Exercise of the delegation**

1. The powers to adopt the delegated acts referred to in Article 9(2) shall be conferred on the Commission until 31 December 2013.
2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
3. The powers to adopt delegated acts are conferred on the Commission subject to the conditions laid down in Articles 11 and 12.

## Article 11

**Revocation of the delegation**

1. The delegation of powers referred to in Article 9(2) may be revoked at any time by the European Parliament or by the Council.
2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of powers shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated powers which could be subject to revocation and possible reasons for a revocation.
3. The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the *Official Journal of the European Union*.

## Article 12

**Objections to delegated acts**

1. The European Parliament or the Council may object to a delegated act within a period of 2 months from the date of notification.

At the initiative of the European Parliament or the Council, that period shall be extended by 2 months.

2. If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the *Official Journal of the European Union* and shall enter into force on the date stated therein.

The delegated act may be published in the *Official Journal of the European Union* and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

3. If the European Parliament or the Council objects to a delegated act, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.

## Article 13

**Implementing measures on data and information policy and on the governance of the security of GMES components and information**

1. On the basis of the criteria referred to in point (b) of Article 9(2), the Commission shall adopt specific measures in accordance with the regulatory procedure referred to in

Article 16(3), for restricting access to the information produced by GMES services and data collected through the GMES dedicated infrastructure.

2. The Commission shall ensure overall coordination with regard to the security of the GMES components and services, taking into account the need for oversight and integration of the security requirements of all its elements, without prejudice to national rules and procedures applicable to space and *in-situ* infrastructures under national control. In particular, the Commission shall adopt measures, in accordance with the regulatory procedure referred to in Article 16(3), laying down technical requirements in order to ensure the control and integrity of the system within the GMES space component dedicated programme, and to control the access to, and handling of, technologies that provide security to the GMES space component dedicated programme.

## Article 14

**Monitoring and evaluation**

1. The Commission shall monitor and evaluate the implementation of the operational actions referred to in Article 3(1).

2. The Commission shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions an interim evaluation report by 31 December 2012 and an ex-post evaluation report by 31 December 2015.

## Article 15

**Implementing measures**

1. The Commission shall adopt the annual work programme pursuant to Article 110 of the Financial Regulation and Articles 90 and 166 of Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>(1)</sup> in accordance with the management procedure referred to in Article 16(4) of this Regulation.

2. The financial allocation for the GMES programme may also cover expenses relating to preparatory, monitoring, control, audit and evaluation activities which are required directly for the management of the GMES programme and the achievement of its objectives, and in particular studies, meetings, information and publication actions, together with all other technical and administrative assistance expenses that the Commission may incur for the management of the GMES programme.

<sup>(1)</sup> OJ L 357, 31.12.2002, p. 1.

*Article 16***GMES Committee**

1. The Commission shall be assisted by a committee (the 'GMES Committee').

2. The GMES Committee may meet in specific configurations to deal with concrete issues, notably those relating to security (the 'Security Board').

3. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at 2 months.

4. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at 2 months.

5. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

*Article 17***User Forum**

1. The User Forum is hereby set up as a dedicated body. It shall advise the Commission with regard to the definition and validation of user requirements, and to the coordination of the GMES programme with its public sector users.

2. The User Forum shall be chaired by the Commission. It shall consist of GMES public sector users appointed by the Member States.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 22 September 2010.

*For the European Parliament*  
*The President*  
J. BUZEK

*For the Council*  
*The President*  
O. CHASTEL

3. The Secretariat of the User Forum shall be provided by the Commission.

4. The User Forum shall adopt its rules of procedure.

5. The GMES Committee shall be kept fully informed of the advice of the User Forum for the implementation of the GMES programme.

*Article 18***Protection of the Union's financial interests**

1. The Commission shall ensure that, when actions financed under this Regulation are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by means of effective checks and by the recovery of amounts unduly paid and, if irregularities are detected, by effective, proportional and dissuasive penalties, in accordance with Regulation (EC, Euratom) No 2988/95, Regulation (Euratom, EC) No 2185/96 and Regulation (EC) No 1073/1999.

2. For the Union actions financed under this Regulation, the notion of irregularity referred to in Article 1(2) of Regulation (EC, Euratom) No 2988/95 shall mean any infringement of a provision of Union law or any breach of a contractual obligation resulting from an act or omission by an economic operator which has, or would have, the effect of prejudicing the general budget of the European Union by an unjustified item of expenditure.

3. Agreements resulting from this Regulation, including agreements concluded with participating third countries and international organisations, shall provide for supervision and financial control by the Commission, or any representative authorised by it, and audits by the Court of Auditors, if necessary on-the-spot audits.

*Article 19***Entry into force**

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

## ANNEX

**OBJECTIVES OF GMES INITIAL OPERATIONS (2011–2013)**

The operational actions referred to in Article 3(1) shall contribute to the following objectives:

1. emergency response services, based on existing activities in Europe, shall ensure that Earth observation data and derived products are made available for the benefit of emergency response players at international, European, national and regional levels in relation to different types of disasters, including meteorological hazards (including storms, fires and floods), geophysical hazards (including earthquakes, tsunamis, volcanic eruptions and landslides), deliberate and accidental man-made disasters and other humanitarian disasters. As climate change could lead to an increase in emergencies, GMES emergency response will be essential to support climate change adaptation measures in this area as a part of the prevention, preparedness, response and recovery activities in Europe;
2. land monitoring services shall ensure that Earth observation data and derived products are made available for the benefit of European, national, regional and international authorities responsible for the global-to-local environmental monitoring of biodiversity, soil, water, forests and national resources, as well as in general implementation of environmental policies, collection of geographical information, agriculture, energy, urban planning, infrastructure and transport. Land monitoring services shall include monitoring of climate change variables;
3. marine monitoring services shall provide information on the state of physical ocean and marine ecosystems for the global ocean and the European regional areas. The application areas of the GMES marine services include maritime safety, the marine environment and coastal regions, marine resources as well as seasonal meteorological forecasting and climate monitoring;
4. atmosphere environmental services shall ensure the monitoring of air quality on a European scale and of the chemical composition of the atmosphere on a global scale. It shall in particular provide information for air quality monitoring systems at the local to national scales, and should contribute to the monitoring of atmospheric chemistry climate variables;
5. security services shall provide useful information in support of the challenges which Europe is facing in the security field, notably border control, maritime surveillance and support for EU external actions;
6. monitoring of climate change shall allow for the adaptation and mitigation of its effects. It should in particular contribute to the provision of ECVs, climate analyses and projections on a scale relevant to adaptation and mitigation and relevant service delivery;
7. measures to support take-up of services by users shall include implementation of technical interfaces adapted to the specific user environment, training, communication and development of the downstream sector;
8. data access shall ensure that Earth observation data from a wide range of European missions and other types of observation infrastructure, are collected and made available to achieve the objectives of GMES;
9. the *in-situ* component shall ensure coordination of *in-situ* data collection and *in-situ* data access for GMES services;
10. GMES initial operations shall ensure the operations and development of the GMES space component, which consists of space-borne Earth observation infrastructure and aims at ensuring observation of Earth sub-systems (including land surfaces, atmosphere and oceans). GMES initial operations shall draw on existing or planned national and European space infrastructure and on space infrastructure developed in the GMES Space Component Programme.